

1 for not offering it?

2 A My answer would be strictly speculative. I
3 don't know the real reasons.

4 Q Have you not been in negotiations with
5 BellSouth over this and other matters?

6 A I have not been in negotiations, no. I
7 attended two meetings where there was discussion but,
8 to my knowledge, they were not negotiations, and I did
9 not participate in any subsequent negotiations, if
10 there were ever any.

11 Q When BellSouth first tariffed its DPDS
12 service, was a printed booklet the only allowable
13 format for publishing directories?

14 A Yes.

15 Q And currently that tariff permits directory
16 publication by way of a printed booklet or a CD ROM
17 format, correct?

18 A Yes.

19 Q Mr. Screven, I'd like you to help us
20 understand how you distinguish DPDS from DADS. Do you
21 understand the difference between the two tariffs?

22 A Yes, I do.

23 Q What is that difference?

24 A One is an individual live person that
25 disseminates information upon a specific request, and

1 that would be DADS. And the other is that we print,
2 publish, or distribute a compilation of listings so
3 that a person can utilize it on their own without the
4 use of a third party.

5 Q Is that the only difference in your opinion?

6 A With my limited exposure to DADS, I'm sure
7 there are probably some other differences, but that's
8 my only recollection of the primary difference.

9 Q Is the database that is supplied under
10 either of the tariffs the same?

11 A According to their original filings and the
12 answers to Staff interrogatories, it is the same
13 database. The difference is how the information is
14 used once it's extracted and distributed to the user.

15 Q I believe you responded to one of
16 Mr. Kitchings questions by saying -- or perhaps it was
17 Commissioner Clark's question -- that you would at
18 least envision this information to be available on the
19 Internet even though you don't currently have a plan
20 to do so?

21 A Yes. Strictly as a mirror image of our
22 printed product.

23 Q If this information were available on the
24 Internet, why would that not amount to directory
25 assistance?

1 A Because it's not dealing with a third party
2 that you would call specifically to have them assist
3 you. You have access to the information, that you
4 have to glean through the information and extract the
5 answer or the information you're seeking without the
6 assistance of a third party.

7 Q In that your view would not be directory
8 assistance?

9 A That's correct.

10 Q It would not be a violation of the DADS
11 tariff?

12 A No, sir, it wouldn't.

13 Q In response to one other question of
14 Mr. Kitchings, you indicated that you do not at the
15 present time publish electronic directories. Do you
16 remember?

17 A Yes, I remember that.

18 Q Are you aware of any other directory
19 publisher in Florida publishing electronic directories
20 at the present time?

21 A No, sir. I'm not aware of any.

22 Q Mr. Kitchings asked you about your
23 arrangements with ALLTEL and GTE, and you did make a
24 response with respect to ALLTEL, as I recall.

25 A Yes, sir.

1 Q But I don't recall that you responded in
2 respect to GTE. What arrangements, if any, do you
3 have with GTE?

4 A I have no arrangements with GTE on the
5 simple basis that when we requested information from
6 them as well, they, until we persisted, didn't answer
7 our letters. Then, finally, when they did, they
8 offered us listings at 60 cents a listing, and they
9 would not give it to us in any kind of a format. They
10 would only deliver us a copy of their directory saying
11 that their policy was that they would only furnish
12 information as current as they had published and that
13 was the extent of their license agreement.

14 Since the -- and we were compelled to
15 purchase it at 60 cents a listing if we wanted to
16 compete because that was pre-Feist decision which it
17 meant that the listings were copyrightable. After the
18 Feist decision, we continued to take the information
19 without the benefit of having to pay them 60 cents
20 apiece.

21 Q Do you publish directories today on the
22 basis of that information?

23 A No, sir, I don't. GTE pulled out of the
24 state of Georgia, and they sold all of their
25 properties to ALLTEL. I have to deal with ALLTEL in

1 Georgia, but I don't deal with GTE in Florida,
2 although some of our publishers that are interested in
3 this outcome very seriously are concerned about the
4 problems with GTE.

5 Q I think that really concludes my questions,
6 except perhaps for one question. Mr. Screven, what in
7 your mind is the -- what in your mind are the major
8 stumbling blocks? That is the stumbling blocks that
9 have prevented FIDP, or your company specifically,
10 from reaching an agreement with BellSouth over this
11 matter. Can you bring this altogether?

12 A My opinion is that they don't want us in the
13 market competing against their directory publishing
14 business, and they are doing everything they can to
15 impede our competition. And this is just a strong
16 measure to offer controls and limitations on us as
17 enterprise entrepreneurs. And I might add that this
18 essential information is not available from any other
19 source. And we have no choice.

20 Q I understand. Can you be somewhat more
21 specific about the obstacles beyond the competitive
22 consideration? What elements of an eventual agreement
23 have --

24 A When we were obtaining listing information
25 under license agreements, as we still do in the states

1 where the tariff is not in place, a lot of the
2 publishers here are still subjected to those license
3 agreements. And they are unduly restrictive and have
4 controls on us, and they're really anticompetitive in
5 nature. And as a result, when we buy listings from
6 Bell, up until the recent year or so, we had no
7 confidence in the material -- in the information we
8 received from them as being accurate and up-to-date.
9 Oftentimes it was riddled with errors.

10 We received listings that had nonpublished
11 and confidential listings that we ended up publishing
12 in our book that obviously these people suffered a
13 harm from it and we suffered their wrath and it was
14 used against us. We had prefixes that were added to
15 our database that were not requested that ended up
16 being published. We often ordered data from them that
17 came in with more information, and we used service
18 bureaus to compile that data for us into a usable
19 format. And then they charge us on a per listing
20 basis sometimes to compile that information. And we
21 were charged for sometimes -- I know a specific case I
22 had ordered two databases separately, one of about
23 60,000, another one around 40,000. And I asked it at
24 two separate times to be delivered and they delivered
25 the first one with the full hundred thousand listings

1 on it, and I was charged by the service bureau. The
2 charges and the services were over \$1,000 to prepare
3 that for publication, which when I got it, it had
4 60,000 listings I didn't need for my book.

5 My complaint with them was that's not what I
6 ordered, and they said, "Well, you won't have to pay
7 for it." They have always stood basis that they're
8 insulated by their license agreement or their tariffs
9 to be held to any standard of accountability and
10 impose these liabilities on us; that we have no
11 recourse on them, or we waive our right to recourse
12 against them. And it's just a myriad of things that
13 we have been faced with in the whole process. And
14 we're still not 100% sure of the stuff that we get
15 from Bell is accurate, what we ordered.

16 Q Well, you filed a protest to the
17 Commission's amendatory order on the grounds that it
18 apparently removed the requirement that BellSouth
19 provide residential new connect listings; is that
20 correct?

21 A Among one of the issues, yes, that is
22 correct.

23 Q That was the basis for your protest, was it
24 not?

25 A Yes.

1 Q Can you explain why you think the amendatory
2 order removed that requirement? That is the
3 requirement to supply residential new connects.

4 A My best explanation of that is that
5 BellSouth declared that it would include that
6 information in their update service, which ultimately
7 was their refresh program, and there would be no need
8 for that separate item because it would be included in
9 that. And I think the order was amended because of
10 the belief that that would be acceptable to us as
11 publishers, and, in fact, it was not acceptable.

12 Q Then it's your view that as a result of the
13 amendatory order there's no longer a requirement
14 placed upon BellSouth to provide residential and new
15 connect listings?

16 A As a specific service, that is correct.

17 MR. PELLEGRINI: Thank you, Mr. Screven. We
18 have no more. I have no further questions.

19 WITNESS SCREVEN: Thank you, Mr. Pellegrini.

20 CHAIRMAN JOHNSON: Commissioners? Redirect?

21 REDIRECT EXAMINATION

22 BY MR. HORTON:

23 Q Mr. Screven, just a few questions. You
24 publish a directory in Florida; is that correct?

25 A Yes, I do.

1 Q Do you publish a directory in the GTE
2 territory in Florida?

3 A Yes. As I explained to Mr. Kitchings, it
4 covers GTE and Southern Bell in the Nassau County area
5 which has two telephone companies, and we publish this
6 one directory that covers both markets and is
7 distributed free of charge to every home in both
8 markets.

9 COMMISSIONER DEASON: Mr. Horton, did you
10 say GTE or ALLTEL?

11 MR. HORTON: I asked GTE.

12 WITNESS SCREVEN: Oh, I'm sorry. Excuse me.
13 No, I do not publish a directory in the GTE market in
14 Florida.

15 If I may explain, one of the confusions is
16 GTE is primarily the directory publishing Yellow Page
17 sales agent for ALLTEL. And, yes, we do compete
18 against them in the selling of advertising and the
19 publishing of the book, but the owner of the product
20 is ALLTEL. So we kind of think of them in the same
21 terms as one and the same.

22 Q (By Mr. Horton) You were also asked
23 several questions with respect to your authorization
24 to appear on behalf of FIDP. Look, if you would, at
25 the last two pages of Exhibit GS-2, or Exhibit No. 3.

1 (Pause) (Witness complies)

2 That is the responses to the
3 interrogatories?

4 A Yes.

5 Q Did you have that in front of you when you
6 answered Mr. Kitchings earlier --

7 A No, I did not.

8 Q Of the members that are listed on those
9 responses, have all of those authorized you to appear
10 today, or to appear on their behalf? (Pause)

11 A Yes, they have.

12 Q So you have authorization for each one of
13 those companies to represent them in this proceeding?

14 A Yes, sir.

15 COMMISSIONER CLARK: Mr. Horton, may I ask a
16 question? Is it also your testimony that each one of
17 those will be prepared to -- is prepared to buy the
18 service you're requesting?

19 WITNESS SCREVEN: Either a portion or all of
20 it, yes.

21 Q (By Mr. Horton) There were several
22 questions with respect to negotiations and meetings.
23 You indicated you participated in two meetings. Do
24 you know how many meetings there were?

25 A I seem to recall there were four or five

1 meetings.

2 Q But there were more than the ones that you
3 participated in?

4 A Yes, sir. There were.

5 Q Were those negotiations directed
6 specifically at Florida, or was that with respect to
7 another jurisdiction?

8 A Those were on a regional basis for the
9 nine-state area covered by BellSouth.

10 Q Was there any written agreement or any kind
11 of a stipulation applicable to Florida that was
12 reached as a result of those meetings?

13 A Well, collectively, the publishers within
14 the region agreed in principle and signed a
15 position -- signed a letter of authorization and a
16 position paper that they all stood behind our efforts
17 to deal with this issue, which included the state of
18 Florida in the nine-state area. But not specifically
19 for the state of Florida.

20 Q Mr. Kitchings represented to you that 200
21 publishers approximately -- and I'm sorry I didn't get
22 the number, but it was a hundred some odd -- only
23 about a hundred purchased information through DPDS.
24 Do you remember that question?

25 A Yes.

1 Q Is DPDS the only way that publishers acquire
2 information from BellSouth?

3 A No, it's not. They acquire it sometimes
4 under licensed agreement from BellSouth.

5 Q So of the difference between the 100 and the
6 200 publishers, those other publishers may be
7 acquiring this information through licensed contract
8 or some other arrangement from BellSouth?

9 A That's correct.

10 Q Mr. Kitchings also had you recite your other
11 sources for information. These other sources, are any
12 of them able to provide you the information on an as
13 timely or up-to-date basis as BellSouth?

14 A No, they are not.

15 Q Is the WBAR currently offered as an update
16 service?

17 A No. Emphatically, no. As a matter of fact,
18 when it was designed and delivered to us under
19 licensed agreement, as well as in the tariff, it was
20 specifically earmarked to be used as an effort for
21 independent publishers to contact new businesses for
22 the soliciting and selling of Yellow Page advertising
23 only.

24 Q Mr. Kitchings also asked you if you were
25 aware that there are currently four subscribers to the

1 WBAR. Do you recall that?

2 A That there were four?

3 Q Yes.

4 A Yes. I thought he said two.

5 Q There are some current subscribers, you
6 agree with me?

7 A Yes.

8 Q He also agreed if Bell offered services that
9 you want that their current customers to the WBAR
10 might be affected. Do you think those customers would
11 consider subscribing to the services that you're
12 asking for?

13 A Certainly if they are subscribing to the
14 WBAR, they would continue to subscribe to it under the
15 new language, yes.

16 MR. HORTON: That's all I have, Madam
17 Chairman.

18 CHAIRMAN JOHNSON: Thank you. Exhibits.

19 MR. HORTON: I would move Exhibit 1.

20 CHAIRMAN JOHNSON: Show it admitted without
21 objection.

22 MR. PELLEGRINI: Staff would move the
23 exhibit marked 3.

24 CHAIRMAN JOHNSON: Show that admitted
25 without objection. And we have late-filed

1 Exhibit No. 2 outstanding.

2 You may be excused.

3 (Exhibits 1 and 3 received in evidence.)

4 (Witness Screven excused.)

5 - - - - -

6 WITNESS SCREVEN: Thank you.

7 CHAIRMAN JOHNSON: BellSouth.

8 MR. KITCHINGS: BellSouth would call Lynn
9 Juneau to the stand.

10 - - - - -

11 LYNN JUNEAU

12 was called as a witness on behalf of BellSouth
13 Telecommunications, Inc. and, having been duly sworn,
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MR. CARVER:

17 Q Mr. Juneau, just take your time, but let me
18 know whenever you're ready to begin.

19 A Okay.

20 COMMISSIONER KIESLING: Mr. Juneau, you're
21 going to have to push the button so the red light is
22 out.

23 MR. CARVER: Mr. Horton, has requested that
24 I wait just a moment so that he could confer with
25 Staff --

1 COMMISSIONER KIESLING: Pardon me?

2 MR. CARVER: No, I'm sorry. I was just
3 noting that Mr. Horton had asked to have a moment to
4 confer with Staff, so I was clarifying why I hadn't
5 begun my examination.

6 MR. HORTON: I'm sorry. I was just
7 clarifying that there wouldn't be an objection. I
8 have some questions for Mr. Juneau on what the Staff
9 has identified as exhibits, and when it gets to mine,
10 I was just going to ask Staff if they would go ahead
11 and identify them.

12 CHAIRMAN JOHNSON: Very well.

13 MR. CARVER: Thank you.

14 BY MR. CARVER:

15 Q Mr. Juneau, would you please state your full
16 name and your business address?

17 A My name is Lynn Juneau. My business address
18 is 3535 Colonnade Parkway, Room S-3-I, Birmingham
19 Alabama 35243.

20 Q By whom are you employed and in what
21 capacity?

22 A I'm employed by BellSouth
23 Telecommunications. I'm a manager in the
24 interconnection Services Pricing Group.

25 Q Have you caused to be prefiled in this

1 docket six pages of direct testimony and eight pages
2 of rebuttal testimony?

3 A I have.

4 Q Do you have any changes to either your
5 direct or rebuttal testimony?

6 A Yes, I do. I have a change to my rebuttal
7 testimony dated November 25th, 1996. On Page 5,
8 delete the sentence beginning on Line 23 and the
9 following sentence through Line 25. And those
10 sentences should be replaced with the following
11 sentence. "BellSouth has used listing information
12 provided under the DADS tariff to trial a business
13 directory assistance-type Internet service.

14 CHAIRMAN JOHNSON: Could you repeat that?
15 We're trying to write it as you speak.

16 COMMISSIONER KIESLING: I'm still trying to
17 find it.

18 WITNESS JUNEAU: Okay. It's Page 5 of the
19 rebuttal, the second sentence beginning on Line 23. I
20 propose to delete those last two sentences. And then
21 would replace that with this sentence: "BellSouth has
22 used listing information provided under the DADS
23 tariff to trial the business directory assistance-type
24 Internet service."

25 CHAIRMAN JOHNSON: Say that last part again,

1 to what?

2 WITNESS JUNEAU: -To trial.

3 THE REPORTER: T-R-I-A-L?

4 WITNESS JUNEAU: Yes. "A business directory
5 assistance-type Internet service."

6 MR. PELLEGRINI: Mr. Juneau, could you
7 repeat the entire sentence, please, one more time?

8 A . Okay. "BellSouth has used listing
9 information provided under the DADS tariff to trial a
10 business directory assistance-type Internet service."

11 Q Do you have any other changes to your
12 testimony?

13 A No.

14 Q Mr. Juneau, if -- with that change, if I
15 were to ask you the questions that appear in your
16 direct and rebuttal testimony, would your answers be
17 the same?

18 A They would.

19 MR. CARVER: Madam Chairman, I request that
20 the witness' direct and rebuttal testimony be inserted
21 into the record as though read.

22 CHAIRMAN JOHNSON: It will be so inserted.
23
24
25

1 BELL SOUTH TELECOMMUNICATIONS, INC.

2 DIRECT TESTIMONY OF M. LYNN JUNEAU

3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

4 DOCKET NO. 931138-TL

5 October 22, 1996

6
7 Q. PLEASE STATE YOUR NAME, EMPLOYER, POSITION AND
8 BUSINESS ADDRESS.

9
10 A. My name is M. Lynn Juneau. I am employed by BellSouth
11 Telecommunications, Inc. (Hereinafter referred to as "BellSouth" or "the
12 Company"). My present position is Manager-Pricing in the
13 Interconnection Services Department. My business address is 3535
14 Colonnade Parkway, Birmingham, Alabama 35243.

15
16 Q. PLEASE GIVE A DESCRIPTION OF YOUR EDUCATIONAL
17 BACKGROUND AND WORK EXPERIENCE.

18
19 A. I received a Bachelor of Science degree in Business Administration
20 from Centenary College of Louisiana in 1971. I am a Certified Public
21 Accountant, licensed to practice by the State of Alabama. I have
22 twenty-five years experience with BellSouth in the Comptrollers,
23 Regulatory, and Interconnection Services departments.

24
25 Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?

1

2 A. I am responsible for the pricing, tariffing and regulatory support of
3 several different services offered by BellSouth in all jurisdictions served
4 by BellSouth.

5

6 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

7

8 A. On July 25, 1996 the Florida Public Service Commission Staff
9 ("Commission Staff") presented a list of four issues to be addressed in
10 this docket. The purpose of my testimony is to address the issues that
11 the Commission Staff has identified. I shall respond to each issue as it
12 has been presented.

13

14 **ISSUE 1**

15

16 Q. SHOULD BELL SOUTH BE REQUIRED TO OFFER A LISTING
17 SERVICE CONSISTING OF NEW CONNECTIONS OF RESIDENTIAL
18 AND BUSINESS SUBSCRIBERS? IF SO, WHAT ARE THE
19 APPROPRIATE RATES, TERMS AND CONDITIONS?

20

21 A. No. BellSouth should not be required to offer a listing service
22 consisting solely of new connections of residential and business
23 subscribers for several reasons:

24

25

1 1. Lists consisting solely of new connects are not required to
2 publish directories.

3
4 2. BellSouth should not be required to develop and offer services
5 which customers will not buy in sufficient quantity at appropriate
6 rates. The Company is not aware of demand from the directory
7 publishers for a listing of new connects service in sufficient
8 quantity at the appropriate rates to justify the development of
9 this product. At this time, we know of only one customer who
10 desires this service.

11
12 3. The question of whether BellSouth should be required to provide
13 residence listing new connect information via its Weekly
14 Business Activity Report (WBAR) has already been ordered by
15 the Commission in its Order No. PSC-96-0446-FOF-TL, issued
16 March 29, 1996.

17
18 **ISSUE 2**

19
20 Q. IS BELLSOUTH'S NEWLY EFFECTIVE UPDATE SERVICE
21 APPROPRIATE? IF NOT, WHAT CHANGES SHOULD BE MADE?

22
23 A. Yes. The Monthly Refresh option was implemented based on
24 negotiations with the independent publishers, including those operating

1 in Florida. The Company was under the impression that the Monthly
2 Refresh option satisfied the publishers' need for an update service.

3
4 **ISSUE 3**

5
6 Q. SHOULD THERE BE ANY RESTRICTIONS ON THE TYPES OF
7 DIRECTORIES THAT CAN BE PUBLISHED UNDER THE DPDS
8 TARIFF? IF SO, WHAT RESTRICTIONS SHOULD THERE BE?

9
10 A. Yes. Restrictions included in BellSouth's current Florida DPDS GSST
11 Tariff A38.2 should apply.

12
13 Q. WHAT RESTRICTIONS ARE IN THE FLORIDA DPDS TARIFF AND
14 WHY SHOULD THEY REMAIN IN PLACE?

15
16 A. The tariff specifies that directories published using DPDS may be in
17 printed or CD ROM format and that the directories must be organized in
18 alphabetical and/or numerical sequence. This restriction was placed in
19 the tariff to allow DPDS information to be used for directory publishing
20 service, but to prohibit this same information from being used to provide
21 directory assistance service, a separate line of business covered in
22 another tariff.

23
24 Additionally, the tariff specifies that DPDS data may not be used to
25 publish and distribute in any form lists of new or changed telephone

1 subscribers. The DPDS tariff is designed to be used to publish
2 telephone directories.

3
4 **ISSUE 4**

5
6 Q. WHAT SHOULD BE THE EFFECTIVE DATE OF TARIFFS FILED
7 PURSUANT TO THE COMMISSION'S ORDER IN THIS CASE?

8
9 A. BellSouth does not believe any tariff changes are required.

10
11 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

12
13 A. BellSouth has worked with the directory publishers to develop DPDS
14 service that meets customer needs at a fair price. The terms and
15 conditions of the DPDS tariff now effective in Florida are a result of
16 agreements made pursuant to regional negotiations, which included
17 active involvement by the members of FIDP participating in this
18 proceeding. Further modification to BellSouth's DPDS tariff is neither
19 necessary nor appropriate.

20
21 Addressing each of the issues as listed by the Commission Staff,
22 BellSouth's positions can be summarized as follows:

- 1 1. BellSouth should not be required to offer a listing service
- 2 consisting solely of new connections of residential and business
- 3 subscribers.
- 4 2. BellSouth's newly effective update service appropriately serves
- 5 the needs of the Company's DPDS customers.
- 6 3. Restrictions currently included in BellSouth's DPDS tariff should
- 7 be retained.
- 8 4. BellSouth does not believe any tariff changes are required.

9

10 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

11

12 A. Yes.

13

14

15

16

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24

25

BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF M. LYNN JUNEAU
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 931138-TL
November 25, 1996

Q. PLEASE STATE YOUR NAME, EMPLOYER, POSITION AND
BUSINESS ADDRESS.

A. My name is M. Lynn Juneau. I am employed by BellSouth
Telecommunications, Inc. (hereinafter referred to as "BellSouth" or "the
Company"). My present position is Manager-Pricing in the
Interconnection Services Department. My business address is 3535
Colonnade Parkway, Birmingham, Alabama 35243.

Q. ARE YOU THE SAME M. LYNN JUNEAU WHO FILED DIRECT
TESTIMONY ON BEHALF OF BELLSOUTH ON OCTOBER 22, 1996?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

1 A. My testimony rebuts the direct testimony filed in this case by Gerry
2 Screven of Direct Media Corporation, on behalf of the Florida
3 Independent Directory Publishers.

4
5 Q. WHY IS YOUR REBUTTAL NECESSARY?

6
7 A. My rebuttal testimony is necessary to respond to certain statements
8 made in Mr. Screven's testimony and ensure that the Florida Public
9 Service Commission ("Commission") clearly understands that
10 BellSouth's Directory Publishers Database Service (DPDS) tariff
11 effectively provides the data necessary for the independent directory
12 publishers to publish their directories. Additionally, the refresh option in
13 the DPDS tariff provides the publishers an economical means of
14 obtaining updated directory listings.

15
16 Q. ON PAGE 6, LINES 8 THROUGH 16, MR. SCREVEN'S TESTIMONY
17 STATES THAT BELL SOUTH'S AFFILIATE RECEIVES NEW LISTING
18 INFORMATION THAT IS NOT MADE AVAILABLE TO INDEPENDENT
19 PUBLISHERS. IS THIS TRUE?

20
21 A. No. BellSouth's affiliate publisher, BellSouth Advertising and
22 Publishing Company (BAPCO), receives a daily transmittal of all
23 service order activity occurring in BellSouth's nine state serving area.
24 Information about new listings is imbedded in the data transmitted, but
25 a report of new listings is not provided.